



COMMITTEE ON ELECTIONS, RULES, ORDINANCES, ORDERS AND CLAIMS

Councilor David J. Narkewicz, Chair
Councilor Maureen T. Carney
Councilor David A. Murphy

Minutes April 12, 2010

Chairman Councilor David Narkewicz opened the meeting at 6:02 p.m. Councilors Narkewicz, Carney and Murphy were present. City Solicitor Elaine M. Reall was present.

□ Approval of Minutes of March 8, 2010

Councilor Murphy moved approval of the minutes; Councilor Carney seconded. The vote passed unanimously (3-0).

□ CLAIMS:

No claimants were present. The Clerk mailed letters to all claimants on March 29 and March 30, 2010 with notification that claims would be heard at the April 12, 2010 meeting.

➤ Szpila Claim of Property Damage of January 19, 2010

City Solicitor Reall recommends denial of the claim.

Councilor Murphy moved to deny the claim; Councilor Carney seconded. The vote passed unanimously (3-0).

➤ Tripp Claim of Property Damage of January 28, 2010

City Solicitor Reall explained that the barrel in the claim was placed by the DPW as a public safety measure in a work detail. The City is not liable for uncontrollable events such as wind. City Solicitor Reall recommends denial of the claim.

Councilor Murphy moved to deny the claim; Councilor Carney seconded. The vote passed unanimously (3-0).

➤ Contrada Claim of Property Damage of February 3, 2010

City Solicitor Reall recommends denial of the claim.

Councilor Carney moved to deny the claim; Councilor Murphy seconded. The vote passed unanimously (3-0).

➤ Sinton Claim of Property Damage of February 26, 2010

City Solicitor recommends approval.

Councilor Carney moved approval of payment of \$131.95 for the claim; Councilor Murphy seconded. The vote passed unanimously (3-0).

➤ Covalli Claim of Property Damage of February 27, 2010
City Solicitor Reall recommends approval.
Councilor Carney moved approval of payment of \$115.77 for the claim; Councilor Murphy seconded. The vote passed unanimously (3-0).

➤ Popielarczyk Claim of Property Damage of February 28, 2010
City Solicitor Reall recommends approval.
Councilor Carney moved approval of payment of \$16.00 for the claim; Councilor Murphy seconded. The vote passed unanimously (3-0).

➤ Bauver Claim of Property Damage of March 1, 2010
City Solicitor Reall recommends partial approval of payment of one tire, one valve and alignment.
Councilor Murphy moved approval of payment of \$194.48 for the claim; Councilor Carney seconded. The vote passed unanimously (3-0).

❑ **ORDER:**

- Amend 2010-2011 City Council Rules (Referred by City Council on January 21, 2010) To be discussed on April 12, 2010

Councilor Angela D. Plassmann was present to discuss the Order. Councilor Plassmann stated that the Order is a matter of housekeeping and reference to make Council Rules more clear.

Councilor Carney pointed out that Section 1 addresses those rules, unless otherwise specified.

Councilor Narkewicz stated that the Council Workshop did address what the Mayor is allowed or not allowed to do at meetings. All rules of the Council were discussed at the workshop, including the references to Robert's Rules of Order. Narkewicz asked Councilor Plassmann what is not clear in the Council Rules.

Councilor Plassmann stated that she believes the Mayor's role in meetings is not clear. This Order would reference Robert's Rules of Order, and tighten up Section 5.

Councilor Narkewicz stated that the City Council does have rules of order and decorum, and if something needs to be clearer, then the Rules of City Council should be clarified, not add more reference to Robert's Rules. Councilor Narkewicz asked Councilor Plassmann what issues concern her.

Councilor Plassmann stated she has seen the Mayor speaking out of order.

Councilor Narkewicz stated that all Councilors have the right to state "Point of Order" if they want to. Councilor Narkewicz stated that adding more references to Robert's Rules of Order would add more confusion and does not benefit the Council.

City Solicitor Reall stated that Council rules exist independently, with most very detailed, and very seldom does a Council adopt Robert's Rules in lieu of their own rules.

Councilor Plassmann stated that the changes she proposes will make Council Rules more clear. If questions arise, the Council can fall back on these references in Robert's Rules.

Councilor Marianne L. LaBarge was present, and supported Councilor Plassmann's proposed changes.

Michael Bardsley stated that his understanding is that Robert's Rules is what the Council goes by, not that Council Rules stand alone.

Councilor Narkewicz asked Mr. Bardsley if he recalled if the Council ever suspended rule 14 with only 5 votes? Mr. Bardsley stated that many people think a 2/3 vote is not 6 votes. Rule 14 specifies a vote of 6.

Mimi Odgers stated that the references make Council rules more clear with page references.

Councilor Plassmann stated that the proposed changes show constituents that Councilors are listening to concerns regarding the Mayor's role. Again, Councilor Narkewicz stated that Councilors could call "Point of Order" at any time during a meeting to enforce Council rules.

Joanne Bessette stated that she believed the Council President should chair the City Council meetings. Dr. Bessette suggested a "guest chair".

Councilor Narkewicz stated that the City Council is a legislative body and should sit as such. He again stated that the Council Rules are being enforced since January 1, 2010 and as discussed at the workshop.

Councilor Plassmann thanked the Committee for the conversation regarding the proposed changes to Council Rules.

Councilor Murphy moved to send the Order to City Council with Recommendation for Disapproval; Councilor Carney seconded. The vote passed unanimously (3-0).

❑ **ORDINANCES:**

- Amend §350-15.4 per Citizens' Petition (Referred by City Council on February 4, 2010 to the Planning Board, Committee on Elections, Rules, Ordinances, Orders and Claims and Committee on Economic Development, Housing and Land Use)

Councilor Carney moved to Amend the Ordinance specifically as the petition states:

providing that *"To see if the City of Northampton will amend the Zoning Ordinance to prohibit all sanitary landfills in the Water Supply Protection Districts. Specifically, we petition to strike all the language in Section 350-15.4.E following the word "amended" so that said section would read as follows:"*

"Section 350-15.4"

Zoning Ordinance 350-15.4

Prohibited uses.

Section E. Sanitary landfills and open dumps, as defined in 310 CMR 19.01 as amended.

Councilor Narkewicz seconded the motion. On the Amended Ordinance, the vote passed unanimously (3-0).

Councilor Narkewicz stated that in 2007, the WSP zone was enacted. At that time the potential for landfill expansion was present. City Solicitor Reall stated that the requested legal opinion of Attorney Bobrowski brought the focus to DEP requirements, and meeting the DEP's stringent and insistent demands.

Councilor Carney moved to send the Amended Ordinance to City Council with No Recommendation; Councilor Murphy seconded. The vote was 2 Yes, 1 No (Councilor Narkewicz voting No).

- Amend Chapter 174 §19 Miscellaneous Fees (Referred by City Council on February 18, 2010 to Planning Board, Committee on Elections, Rules, Ordinances, Orders and Claims, and Committee on Economic Development, Housing and Land Use)

The Committee asked for comments by Wayne Feiden, Director of Planning, on this Ordinance. Mr. Feiden stated that the fee was raised as part of a group of fees raised during the last recession. The fee covers the costs of the City research of the proposal.

Joann Bessette commented that the recession hits families, as well, and when citizens come forward with a petition, that is a great commitment. There should be no fee as taxes are already

significant. It is important to consult a City Councilor, usually, but this situation is unique as Councilors were to maintain neutrality on the issue. Therefore, citizens put forth the petition on their own. It is wrong of the City to ask people to pay to participate in democracy. Instead, it should be made easier for citizens to participate in government.

Michael Bardsley also stated that citizens should not be made to pay a fee when asking for a change in Ordinances.

Mimi Odgers stated that Wayne Feiden told her that this fee had not been paid in a long time, as the Mayor and/or Councilors sponsor most changes. Ms. Odgers asked that the process could perhaps increase necessary signature count, but should not have a fee. The research would have to be done anyway.

Adam Cohen stated that he is in favor of waiving the fee.

Councilor LaBarge stated that she found it difficult to hear that residents had to pay the \$1,000 fee for the Citizens' Petition (350-15.4). It should not be necessary for those who live here, and the City should look at how unnecessary the fee is.

Councilor Plassmann stated that while she understands the process, she found it uncomfortable to hear that citizens had to pay to be heard. She stated that she was at the Committee on Economic Development, Housing and Land Use and urged the Committee to vote in favor of waiving the fee.

Councilor Murphy stated that it is rare that Councilors cannot be asked to weigh in on a situation.

Wayne Feiden stated that the usual approach is to a Councilor or to a department to endorse a change in Ordinance.

Ms. Bessette stated that the fee would stop people from participating in their government.

Wayne Feiden stated that a sliding scale fee does not work as the State specifies such fees. Another scenario is that a petition could be worked through with the Planning Department.

Councilor Carney expressed concerns the presumption that the fee is keeping citizens out of government.

Councilor Murphy moved to send the Ordinance to City Council with No Recommendation; Councilor Carney seconded. The vote passed unanimously (3-0).

- Amend 312-80 Bike Lanes Be Established on West Street, Prince Street, Chapel Street, Rocky Hill Road, and Westhampton Road (Referred by City Council on March 4, 2010 to Committee on Elections, Rules, Ordinances, Orders and Claims)

Councilor Carney moved to send the Ordinance to City Council with Recommendation of Approval; Councilor Murphy seconded. The vote passed unanimously (3-0).

- Discuss creation of Executive Session rules for Northampton City Council
 - Review research provided to the Committee by City Solicitor Elaine M. Reall on September 14, 2009.
 - Review City Solicitor Reall's proposed "City Council Executive Session Minutes Policy" and consider recommendation to full City Council for formal adoption to Council Rules (attached).

City Solicitor Reall explained that this proposal stems from issues that arose in Summer 2009. This proposal would address issues of maintenance, review and the role of City Council regarding Executive Session minutes. Items listed are more specific as to the summary of discussions during Executive Session, votes by Roll Call, how long minutes can be legally withheld from the public, review at least every three months by the City Solicitor, answering public requests within 10 days, and the discard or destruction of minutes not before 60 days after Council approval.

Councilor Murphy moved approval to create the Order to Add Section 49 Executive Session to City Council Rules; Councilor Carney seconded. The vote passed unanimously (3-0).

□ **NEW BUSINESS - none**

At 9:00 p.m., Councilor Carney made the motion to adjourn and was seconded by Councilor Murphy. The vote to adjourn passed unanimously (3-0).

The next meeting of the Committee on Elections, Rules, Ordinances, Orders and Claims is May 10, 2010.

*Respectfully submitted,
Mary L. Midura
Executive Secretary*

City of Northampton City Council Executive Session Minutes Policy

1. The City Council shall create and maintain accurate minutes of all executive session meetings. These minutes shall set forth the day, time and place, the members present or absent, a summary of the discussions on each subject, a list of documents and other exhibits used at the meeting, the decisions made and the actions taken at each meeting, including the record of all votes.
2. Any vote taken in an executive session shall be recorded by roll call and entered into the minutes.
3. The minutes of any executive session and the notes, or other materials used in the preparation of such minutes, and all documents and exhibits used at the session may be withheld from disclosure to the public in their entirety, according to the provisions of M.G.L. Chap 4 § 7(26)(a), as long as publication would defeat the lawful purposes of the executive session, but no longer.
4. The Council President, with the assistance of the Secretary to the Council, shall, at reasonable intervals, not to exceed three months, review the minutes of executive sessions to determine if the relevant statutory provisions warrant continued nondisclosure. Such determination shall be announced at the City Council's next meeting and such announcement shall be included in the minutes of that meeting.
5. Upon request by any person to inspect or copy the minutes of an executive session or any portion thereof, the Council shall respond to the request within 10 days following receipt and shall release any such minutes that would not to defeat to the lawful purposes of the executive session.
6. Any notes, documents or other exhibits used in the preparation of the minutes of executive sessions shall be retained for at least 60 days following the approval of the minutes of the executive session by the Council. The Council President shall periodically review said notes and other documents prior to the discarding or destruction thereof.